

APPEAL NO. 021647  
FILED AUGUST 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 14, 2002. The hearing officer determined that the appellant's (claimant herein) compensable injury of \_\_\_\_\_, did not include left carpal tunnel syndrome, C-6 radiculopathy, left shoulder rotator cuff syndrome, and/or low back strain. The hearing officer also determined that the claimant had disability beginning on August 19, 2001, and ending on October 16, 2001. The claimant files a request for review, challenging these determinations. The respondent (carrier herein) replies that the decision of the hearing officer should be affirmed.

DECISION

The appeal in this case was not timely filed as required by Section 410.202 and therefore the decision and order of the hearing officer have become final pursuant to Section 410.169.

Section 410.202(a) provides that "[t]o appeal the decision of a hearing officer, a party shall file a written request for appeal with the appeals panel not later than the 15th day after the date on which the decision of the hearing officer is received from the division and shall on the same date serve a copy of the request for appeal on the other party." Pursuant to Section 410.202(d), for appeals filed on or after June 17, 2001, Saturdays, Sundays, and holidays listed in Section 662.003, Government Code, are not included in the computation of the time in which a request for appeal under subsection (a) or a response under subsection (b) must be filed. Tex. W.C. Comm'n, 28 TEX ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that a request for appeal shall be presumed to be timely filed if it is (1) mailed on or before the 15th day after the date of receipt of the hearing officer's decision; and (2) received by the Texas Workers' Compensation Commission (Commission) not later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be complied with in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 94065, decided March 1, 1994; Texas Workers' Compensation Commission Appeal No. 94111, decided March 10, 1994.

Commission records show the decision of the hearing officer was mailed on May 21, 2002, and is deemed received by the claimant on May 26, 2002. Under Rule 102.5(d), as amended effective August 29, 1999, unless the great weight of the evidence indicates otherwise, the claimant is deemed to have received the hearing officer's decision five days after it was mailed. Thus the last date for the claimant to timely file an appeal was June 17, 2002, and that the appeal would have to be received by June 25, 2002, to comply with both portions of Rule 143.3(c). The claimant mailed her appeal on June 24, 2002, and it was received on June 28, 2002. Therefore, the

appeal is untimely, since it was not mailed on or before June 17, 2002, nor received on or before June 25, 2002.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer have become final under Section 410.169.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is:

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Susan M. Kelley  
Appeals Judge